

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

AS.No. 406 of 1996()

OS.441/1992 of PRINCIPAL SUB COURT,KOLLAM
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APPELLANT/PLAINTIFF:

A.RAMESAN, KAILAS, POLAYATHODU, KOLLAM (NOW RESIDING AT
VISHNU BHAVAN, ASRAMAM, KOLLAM.)

BY ADV. SRI.K.P.SATHEESAN & SHRI K.K.GOPINATHAN NAIR

RESPONDENTS/DEFENDANTS:

1. BANK OF INDIA, BRANCH KOLLAM, REP. BY ITS BRANCH MANAGER.
2. MANAGER, BANK OF INDIA, BRANCH KOLLAM.

BY ADV. SRI.P.B.SURESH KUMAR

THIS APPEAL SUITS HAVING COME UP FOR ADMISSION
ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K. PADMANABHAN NAIR, J.

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Dated this the 10th day of September, 2007

J U D G M E N T

Plaintiff in O.S. No.441 of 1992 on the file of the Prl. Sub Court, Kollam, is the appellant. Complaining the inadequacy of the quantum of compensation awarded by the learned Sub Judge, plaintiff has filed this appeal.

2. Plaintiff was the member of the 'Deposit Linked Housing Scheme' of the first defendant. He deposited the required amount. According to the plaintiff the last instalment was paid on 6.8.1990. It was averred that as per the Scheme, a member of the Scheme was entitled to get certain benefits, but the plaintiff did not get that benefits. According to him he suffered damages on account of the breach of contract committed by the defendants. Hence the suit.

3. Suit was resisted by the defendants. It was contended that the defendants never agreed to give any benefits to the plaintiff. It was further contended that it was the plaintiff who committed breach of contact.

4. The trial court after appreciating the evidence found

that defendants committed breach and decreed the suit for Rs.6,302/- with 12% interest, as compensation. Dissatisfied with the quantum of compensation awarded by the Sub Judge, plaintiff has filed this appeal.

5. One of the counts disallowed by the learned Sub Judge was damages claimed for preparing plan and estimate. The trial court found that without a plan and estimate the plaintiff will not be in a position to construct a house at all. Plaintiff claimed Rs.50,000/- towards escalation charges and cost of materials. According to the plaintiff since the defendants did not make available the amount, he was unable to proceed with the construction. Trial court found that the plaintiff had applied for the amount required only for construction of a portion of the building and there is no material to hold that plaintiff was in possession of the balance amount and disallowed that claim. Another count on which plaintiff claimed damages was that he had to pay rent for a building in which he was residing. That was also disallowed on valid grounds. So I find no reason to interfere with the judgment and decree passed by the trial court. Hence the

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**appeal is only to be dismissed under Order XLI Rule 11 of the
Code of Civil Procedure.**

In the result, the appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

VSV

K. PADMANABHAN NAIR, J.

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